



Federal Communications Commission
Washington, D.C. 20554

October 21, 2005

DA 05-2739

Released: October 21, 2005

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Libco, Inc.
WSFA(TV)
2215 B Renaissance Drive
Suite 5
Las Vegas, Nevada 89119

Re: Libco, Inc.
WSFA(TV), Montgomery, Alabama
Facility ID No. 13993
File No. BRCT-20041130AOP

Dear Licensee:

This refers to your license renewal application for station WSFA(TV), Montgomery, Alabama.

In the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394, Congress directed the Commission to adopt rules, *inter alia*, limiting the amount of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewals the extent to which the licensee has complied with such commercial limits. Accordingly, the Commission adopted Section 73.670 of the Commission's Rules (Rules), 47 C.F.R. § 73.670, which limits the amount of commercial matter which may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. *Children's Television Programming*, 6 FCC Rcd 2111, 2118, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991). The commercial limitations became effective on January 1, 1992. *Children's Television Programming*, 6 FCC Rcd 5529, 5530 (1991).

Moreover, Section 73.3526 of the Rules requires broadcast licensees to maintain a public inspection file containing specific types of information related to station operations.¹ As set forth in Section 73.3526(e)(11)(ii) of the Rules, each commercial television broadcast station is required to place in its public inspection file on a quarterly basis, records sufficient to allow substantiation of the licensee's certification in its renewal application, of compliance with the children's television commercial limits. Section 73.3526 also requires licensees to place these

¹ See 47 C.F.R. § 73.3526.

records in the public inspection file by the tenth day of the succeeding calendar quarter. Where lapses occur in maintaining the public file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.²

On November 30, 2004, you filed a license renewal application (FCC Form 303-S) for station WSFA(TV), Montgomery, Alabama (File No. BRCT-20041130AOP). In response to Section IV, Question 3 of that application, you certify that, during the previous license term, station WSFA(TV) failed to place in its public inspection file at the appropriate times, all of the documentation required by Section 73.3526 of the Commission's Rules. In Exhibit 17 of that application, you indicate that the licensee discovered in October 2004, that the records concerning compliance with the commercial limits on children's programming for the third and fourth quarters of 1997 were not placed in station WSFA(TV)'s public file. You also report that prior to this period, the station had procedures in place to ensure compliance with the commercial limits and that records regarding commercial limits were placed in the public file for all other quarters during the license term.

In addition, in response to Section IV, Question 5 of that application, you certify that, during the previous license term, station WSFA(TV) failed to comply with the limitations on commercial matter in children's programming specified in Section 73.670 of the Commission's Rules. In Exhibit 19 to the renewal application, you state that station WSFA(TV) exceeded the children's television commercial limits by 45 seconds on Saturday, June 19, 1999. You attribute the violation to an error in airing a commercial make-good, and maintain that station WSFA(TV) took corrective actions to prevent further overages.

Based upon the record before us, we think that an admonition is warranted for the violation of the Commission's children's television regulations described in your renewal application. Although we do not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, based upon the facts and circumstances before us, we ADMONISH you for the admitted violation of Sections 73.3526(e)(11)(ii) and 73.670 of the Rules described in station WSFA(TV)'s renewal application.

In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 309(k). Section 309(k) provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Communications Act or the Commission's Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the

² See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)); *Surrey Range Limited Partnership*, 71 RR 2d 882 (FOB 1992).

renewal application.³ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁴

On balance, we find that Libco, Inc.’s violations of Sections 73.3526(e)(11)(ii) and 73.670 do not constitute a “serious violation” of the Commission’s rules warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, evidence a pattern of abuse. Further, we find that station WSFA(TV) served the public interest, convenience, and necessity during the subject license term.

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to Libco, Inc. at the address listed above, and to its counsel, John S. Logan, Esquire, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

Finally, IT IS ORDERED that, the application (File No. BRCT-20041130AOP) of Libco, Inc. for renewal of license for station WSFA(TV), Montgomery, Alabama IS HEREBY GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

³ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Order, Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, 11 FCC Rcd 6363 (1996).

⁴ 47 U.S.C. §§ 309(k)(2), 309(k)(3).